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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,408	08/30/2001	Akito Kohno	393032027800	3181
25224	7590	07/03/2006	EXAMINER	
MORRISON & FOERSTER, LLP 555 WEST FIFTH STREET SUITE 3500 LOS ANGELES, CA 90013-1024				FAULK, DEVONA E
		ART UNIT		PAPER NUMBER
		2615		

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. <i>4</i> 09/945,908	Applicant(s) GUERRA ET AL.
	Examiner Devona E. Faulk	Art Unit 2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 April 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1,2,5,6,8,9,11,15 is/are allowed.
- 6) Claim(s) 3,4,7,10,12-14 and 16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 August 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/24/2006.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Response to Remarks

1. The applicant has amended the claims rejected in the previous office action. Applicant's arguments, filed 4/7/2006, with respect to the rejection(s) of claim(s) 1-4,6,7,9,10,12-14 under 102(b) and 103(a), regarding the amended claim language, have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of 112 rejections.
2. The 112 rejection of claims 3,4,7 and 10 was set forth in the previous office action but the applicant failed to address it.
3. Claims 15 and 16 are newly added.

Claim Rejections - 35 USC § 112

4. **Claims 3,4,7,10 and 16** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 3 and 10 recite a second control device that causes said second storage device to store timing data specifying timing of reading out the second audio data when said reproducing device reproduces the second audio data". The specification teaches of a RAM 15 that can temporarily store performance data (page 13,lines 25-27) and a pad RAM 16 that temporarily stores information indicating operating timing in which user operates the pads to reproduce the assigned audio data as a musical composition progresses. The specification does not

disclose a storage device to store timing data specifying timing of reading out the second audio data as claimed. There appears to be just one control device and not two as claimed.

5. **Claims 12-14** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 12-14 recite "a computer readable medium containing a mixing control program executable by a computer, said program including various modules. A program has instructions that enable it to be executed. The claim language does not provide instructions to implement what is claimed.

Allowable Subject Matter

6. **Claims 1,3,5,9,11 and 15** are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 1,3,5,9 and 11 prior art Powers, US 6, 839,441, discloses a sound mixing console with master control section –including an input device that inputs a plurality of first audio data, an assigning device, a storage device. Prior art Yamamoto, US 5,942,708, discloses a tone generator with diversification of waveform using variable addressing including an input device, a hard disk drive, a plurality of operating members an assigning device, a memory, a control device. Prior art Saito,US 6,198,035, discloses a musical sound signal generation apparatus. Prior art East, US 6,061,458, discloses an audio mixing console. Prior art Ito, US 5,300,723, discloses an

electronic music device including a switch panel and a switch detection circuit. Prior art Suzuki et al., US 5,831,193, discloses a method and device for forming a tone waveform by combined use of different waveform sample forming resolutions including a hard disk drive, a RAM having a working memory. Prior art Haruyama, US 5,902,948, discloses a performance-instructing device including a RAM memory that temporarily stores automatic performance data, and a switch panel and a switch-detecting panel. Prior art Kondo et al., US 5,668,337 discloses an automatic performance device including a display including a channel change table used to assign data to certain channel, a switch operation detection circuit. Prior art Yamamoto et al, US 6,573,444, discloses a music data compression apparatus and method including a hard disk drive having a primary memory that temporarily stores musical pieces recorded on a music CD and when a user presses a digital dubbing key the data stored in the primary memory, compressed and the compressed data is stored in a secondary memory. The prior art or combination thereof fails to make obvious "a second assigning device that assigns at least one of the plurality of second audio data stored in said storage device"; "wherein the second audio data reproduced by said reproducing device is supplied to said first assigning device and assigned to one of said plurality of input channels by said first assigning device"; "an assigning device that assigns at least one of the plurality of second audio data stored in said built-in hard disk device and at least one of the plurality of third audio data stored in said external storage device respectively to at least one of said plurality of operating members" and "said control device" that is

responsive to the assigning device as claimed. Therefore the prior art or combination thereof fails to disclose or make obvious a mixing device and method as claimed.

Claims 2,4,6,8 and 15 are allowed due to dependency on claim 5.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6, 839,441 to Powers discloses a sound mixing console with master control section –including an input device that inputs a plurality of first audio data, an assigning device, a storage device.

US 5,942,708 to Yamamoto discloses a tone generator with diversification of waveform using variable addressing including an input device, a hard disk drive, a plurality of operating members an assigning device, a memory, a control device.

US 6,198,035 to Saito discloses a musical sound signal generation apparatus.

US 6,061,458 to East discloses an audio mixing console.

US 5,300,723 to Ito discloses an electronic music device including a switch panel and a switch detection circuit.

US 5,831,193 to Suzuki discloses a method and device for forming a tone waveform by combined use of different waveform sample forming resolutions including a hard disk drive, a RAM having a working memory.

US 5,902,948 to Haruyama discloses a performance-instructing device including a RAM memory that temporarily stores automatic performance data, and a switch panel and a switch-detecting panel.

US 5,668,337 to Kondo discloses an automatic performance device including a display including a channel change table used to assign data to certain channel, a switch operation detection circuit.

US 6,573,444 to Yamamoto discloses a music data compression apparatus and method.

JP 10-320194 to Tanji discloses an effect giving device and recording medium.

Yamaha O2R96 Digital Mixing Console Manual.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devona E. Faulk whose telephone number is 571-272-7515. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848.

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2615. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DEF


VIVIAN CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Application/Control Number: 09/945,408

Art Unit: 2615

Page 8